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9 Attorney for Defendant  
10 JOHNNIE TANGHA  
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13 IN THE UNITED STATES DISTRICT COURT  
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16 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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20 UNITED STATES OF AMERICA, )  
21 Plaintiff, ) No. CR 01-20154 JF  
22 vs. )  
23 JOHNNIE TANGHA et al, ) STIPULATED EXPEDITED MOTION TO  
24 Defendants. ) CONTINUE SENTENCING  
25  
26 ) [N.D. Cal. Crim. Local Rule 47-3]  
27 )  
28 ) Court: Judge Fogel

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30 **STIPULATED EXPEDITED MOTION TO CONTINUE**

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32 Defendant JOHNNIE TANGHA hereby moves the Court on an expedited basis, pursuant  
33 to Local Rule 47-3, for an order continuing the currently scheduled September 15, 2011,  
34 sentencing date in this matter to September 22, 2011, at 9:00 a.m. Mr. Tangha so moves on the  
35 basis of defense counsel's participation in a jury trial which just ended, and the government's  
36 recent reassignment of this matter to a new AUSA. As a result of this reassignment, as well as  
37 defense counsel's protracted unavailability due to his participation in the recent six-month trial of  
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39  
40 *Tangha: Expedited Motion to Continue*

1 United States v. Moris Flores et al (the “MS-13 case”), counsel for Mr. Tangha has not yet had  
2 an opportunity to discuss Mr. Tangha’s sentencing with counsel for the government, or to prepare  
3 a sentencing memorandum for the Court.  
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5 Though this motion is being made on an expedited basis pursuant to the procedure set  
6 forth for in the local rules for ex parte motions in accord with Local Rule 47-3(a), and pursuant to  
7 the stipulation of Jeffrey Nedrow, Assistant United States Attorney for the Northern District of  
8 California.  
9

10 Dated: September 1, 2011.

Respectfully Submitted,

11 /s/ Mark Rosenbush

12 MARK ROSENBUSH  
13 Attorney for Defendant  
JOHNNIE TANGHA  
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**IT IS SO STIPULATED.**

15 Dated: September 1, 2011.

/s/ Jeffrey Nedrow

16 JEFFREY NEDROW  
17 Assistant United States Attorney  
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19 **DECLARATION IN SUPPORT OF EXPEDITED MOTION**

20 I, Mark Rosenbush, hereby state:

21 1. I am an attorney duly licensed to practice before this Court. I am the attorney of  
22 record for defendant Johnnie Tangha in the above captioned criminal case.  
23

24 2. I recently finished a six month long trial of the case *United States v. Cerna et al*,  
25 CR09-0730 WHA (the “MS-13 case”), in this district in San Francisco. As a result of the  
26 massive scope of this trial, which was in session every day, I was unable to discuss Mr. Tangha’s  
27 sentencing with the counsel for the government by the currently scheduled date, nor was I able to  
28

work on Mr. Tangha's sentencing memorandum.

3. Upon contacting the government last week, I learned that the government had not yet assigned a new AUSA to Mr. Tangha's case to replace Shawna Yen, the prosecutor previously assigned to this matter. I was subsequently informed that Mr. Jeffrey Nedrow will now be handling the case for the government.

3. I have discussed the proposed continuance of the hearing date in this case with Mr. Nedrow, counsel for the government. Counsel for the government informed me that the U.S. Attorney stipulates to the continuance of the sentencing date proposed herein and authorizes me include the government's stipulation in this motion.

I declare, under penalty of perjury under the laws of the United States, that the foregoing is true to the best of my knowledge and belief. Executed this 1<sup>st</sup> day of September, 2011, in San Francisco, California.

/s/ Mark Rosenbush

MARK ROSENBUCH  
Attorney for Defendant  
JOHNNIE TANGHA

## MEMORANDUM OF POINTS AND AUTHORITIES

Criminal Local Rule 47-3 states:

An *ex parte* motion is a motion filed and submitted for immediate determination by the assigned Judge without giving an opposing party the amount of advance notice which is otherwise required by statute, federal rule or local rule. Unless relieved by these local rules or by order of a Judge for good cause shown or unless being filed under seal pursuant to a statute or federal or local rules, a party making an *ex parte* motion shall nevertheless give reasonable advance notice of the motion to an opposing party.

Northern Dist. of Cal. Crim Local. Rules, Rule 47-3(a). Motions to continue are not specifically authorized under the local rules as motions for which relief may be sought on an expedited basis.

1 Leave of the Court is therefore required before a continuance motion can be submitted and  
2 decided pursuant to Rule 47-3. Given the unavailability of defense and government counsel in  
3 this matter, and the fact that there is a stipulation to the requested order, Defendant hereby  
4 requests that the Court decide this matter on an expedited basis. This motion has been served on  
5 the government.

7 In deciding whether to grant a defendants' motion to continue, the Court must consider,  
8 among other factors, (1) the extent of the defendants' diligence in readying the defense; (2) the  
9 likelihood that the requested continuance would satisfy the defendants' needs; (3) the  
10 inconvenience to the court, the opposing party, and witnesses; and (4) the extent to which the  
11 defendant may be prejudiced by denial of the requested continuance. See *United States v. Tham*,  
12 960 F.2d 1391 (9th Cir. 1992).

14 In this instance a continuance is required because defense and government counsel have  
15 unavailable, and defense counsel has therefore been unable to prepare for Mr. Tangha's  
16 sentencing.

17 **CONCLUSION**

19 Pursuant to the above, Defendant Tangha moves the Court to vacate the currently  
20 scheduled sentencing date and to continue the matter to September 22, 2011, at 9:00 a.m..

21 Dated: September 1, 2011.

Respectfully submitted,

22 /s/ Mark Rosenbush

24 MARK ROSENBUSH  
25 Attorney for Defendant  
26 JOHNNIE TANGHA

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3 IN THE UNITED STATES DISTRICT COURT  
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5 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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7 UNITED STATES OF AMERICA, )  
8 Plaintiff, ) No. CR 01-20154 JF  
9 vs. )  
10 ) ORDER [Proposed]  
11 JOHNNIE TANGHA et al, ) Continuing Sentencing  
12 Defendants. )  
13 )

14 GOOD CAUSE HAVING BEEN FOUND upon the motion of Defendant Johnnie  
15 Tangha, the declaration of counsel Mark Rosenbush, and the stipulation of counsel for the  
16 government Jeffrey Nedrow, as reflected in Mr. Rosenbush's declaration;

17 IT IS HEREBY ORDERED that the sentencing hearing for Mr. Tangha currently  
18 scheduled in this case on September 15, 2011, is hereby CONTINUED to **September 22, 2011**,  
19 at the hour of **9:00 a.m.**  
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22 Dated: 9/8, 2011.  
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24 HON. JEREMY FOGEL  
25 U.S. DISTRICT JUDGE  
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